

## Tilburg University

### 'Normative Patterns and Legal Developments in the Social Dimension of the EU

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## **Aims**

The Common Market Law Review is designed to function as a medium for the understanding and implementation of European Union Law within the Member States and elsewhere, and for the dissemination of legal thinking on European Union Law matters. It thus aims to meet the needs of both the academic and the practitioner. For practical reasons, English is used as the language of communication.

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Ann Numhauser-Henning and Mia Rönnmar (Eds.), *Normative Patterns and Legal Developments in the Social Dimension of the EU*. Oxford: Hart Publishing, 2013. 282 pages. ISBN: 9781849464352. EUR 75.95.

The reviewed book is an edited collection of thirteen chapters that offers an inspiring journey, allowing the reader to discover Anna Christensen's theory of *law as normative patterns in a normative field*. The twelve contributing authors show how this theory may be applied to describe legal developments in the social domain and moreover offer a glimpse at new horizons for future research. They do so by advocating an interdisciplinary approach which should combine especially law, economics and sociology.

The theory of law as normative patterns in a normative field fits well with the intention to follow an interdisciplinary path. Any legal scholar who is searching for ways to connect the legal discipline with other scientific domains, may find this theory to be valuable, as it offers ways to explore a functional relationship between law and the structure of society. It suggests that social structures determine the content of law and thus gives the legal scholar alternative views on the nature of law; turning law perhaps more into an empirical fact than seeing it as an overarching norm or theory. Likewise, the theory on normative patterns provides an excellent opportunity for non-legal scholars to incorporate the legal framework into their research. Apart from giving a good introduction to the theory and its background, the book's chapters use the theory convincingly to explain developments in a range of social security and labour laws. But we will return to this main road of the book later on, and first explore some exciting alleys which may be discovered in the book's introductory chapters, written by Numhauser-Henning and Rönnmar.

One of these alleys is the tale of how scholars find inspiration for developing a theory, and how looking at a painting can trigger one's imagination to start seeing law in a different way. For Christensen – who was also inspired by other scholars, such as Hofstadter – the work of the painter Escher formed such a source of inspiration. To her, Escher's paintings captured certain patterns in complex realities. And such patterns in complex realities was something she began to uncover in legal developments, defining law as "...a medium where different moral and legal

patterns appear and dissolve, float, clash and form new patterns” (Quote of Christensen’s work taken from Numhauser-Henning’s chapter, p. 28). Basically, she distinguishes three such patterns in the social dimension, these being the Market-Functional Pattern, the Protection of Established Rights and Just distribution.

Most chapters in the book use these three basic patterns to explain the developments in a range of social security and labour laws, predominantly legal issues related to important demographic changes, such as new family structures and the ageing society. These studies mostly find a dominance of the Market-Functional Pattern in more recent decades, yet, they also demonstrate that the other normative patterns still matter. Although these exercises are fruitful, they tend to focus on EU law combined with Swedish case studies. It would have been interesting to add studies of other countries as well to the collection of chapters.

Exercises of putting the theory to practice, are combined with chapters that argue for developing the theory further. For instance, Votinius uses the theory’s heuristic qualities to uncover additional normative patterns and suggests adding a Gender Difference pattern. Yet, the greatest contribution of the collection of chapters is that it places the theory, developed largely to fit national level patterns in legal development, in a European context. From this clash between the national and the international context, new ideas emerge on how to further develop the theory. It thereby goes beyond the question posed in the introduction of the book concerning which normative patterns may be found after the implementation of the Lisbon Treaty. It also touches upon more fundamental work to-be-done. One example is the chapter of Sciarra, who mentions that in current times of EU integration, labour lawyers are challenged to transfer their discourse into a transnational scheme (p. 69), while advocating a strong position for the national legislature to safeguard the security of workers and citizens.

Deakin calls for a new theoretical synthesis of both economics and law, going beyond the view that these are two separate domains. He rather argues for the need to understand labour law as a mode of market governance, that as such provides the basis for sustainable economic development (p. 159). Bruun struggles to fit the recent EU-level developments into the theory of Christensen, and questions whether the normative patterns of Just Distribution and Protection of Established Rights are still relevant in an EU-setting where labour increasingly tends to be seen as a commodity. He ends his chapter with the suggestion that the blurring borders between social security law and labour law could actually lead to the construction of a new normative pattern in the labour law field: the Basic Subsistence pattern.

The preface of the book mentions that its aim is not to be merely a collection of conference proceedings. It has succeeded in offering a coherent volume, as most of the authors refer back to Christensen’s theory and relate their research findings to the main building blocks or ideas of this theory. It would have been even better if a concluding chapter had been added, with a research map or compass for exploring and theorizing the future of the social model in a European setting. But perhaps the authors, while writing their chapter, have succeeded in inspiring each other to proceed along the lines set out by the book, and will construct such a compass in future publications. This would give us something to look forward to, while, perhaps luckily, leaving us room to explore the new frontiers of social Europe ourselves.

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